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Security Council Committee established pursuant to resolution 1267 (1999) concerning Al-Qaida and the Taliban and associated individuals and entities

Letter dated 3 May 2004 from the Permanent Representative of Andorra to the United Nations addressed to the Chairman of the Committee

At the request of my Government, I have the honour to transmit to you, in your capacity as Chairman of the Security Council Committee established pursuant to resolution 1267 (1999), the report submitted by the Principality of Andorra (see annex). My Government will be happy to provide the Committee with additional information, as necessary.

I should be grateful if you could arrange for the text of the present letter and its annex to be circulated as a document of the Security Council.

(*Signed*) Julian **Vila-Coma**
Ambassador
Permanent Representative

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Annex to the letter dated 3 May 2004 from the Permanent Representative of Andorra to the United Nations addressed to the Chairman of the Committee

[Original: French]

Report of the Principality of Andorra pursuant to paragraphs 6 and 12 of Security Council resolution 1455 (2003)

Andorra's interest in combating terrorism is evident in the preamble of its Constitution, which states: "The Andorran people (...) [are] eager to use every endeavour to promote values such as liberty, justice, democracy and social progress, and to maintain and strengthen the harmonious relations of Andorra with the rest of the world, and especially with neighbouring countries, on the basis of mutual respect, coexistence and peace."

In that respect, Andorra stands ready to cooperate with the Committee in drafting the report on measures taken to implement resolution 1455 (2003), as it has done previously in accordance with the obligations undertaken pursuant to the provisions of paragraph 6 of resolution 1373 (2001), by submitting a detailed report to the Counter-Terrorism Committee on 21 December 2001, followed by a supplementary report providing additional clarification on some matters treated in the first report, and lastly by a second supplementary report from the Government of Andorra, which answers questions raised by the Committee in its letter of 7 April 2003. The Andorran Government also submitted on 3 June 2002 a report pursuant to Security Council resolution 1390 (2002).

The Andorran Government is therefore firmly determined to combat all forms of terrorism by every available means, as has been publicly reaffirmed on many occasions by the Head of Government and the Minister for Foreign Affairs.

I. Introduction

1. Please provide a description of activities, if any, by Usama bin Laden, Al-Qaida, the Taliban and their associates in your country, the threat they pose to the country and the region, as well as likely trends.

The Andorran authorities are not aware of any activity carried out by Usama bin Laden, Al-Qaida, members of the Taliban or their associates in the Principality of Andorra. Nevertheless, the Andorran Government has been very vigilant regarding any activity or occurrence that might be linked to those individuals or entities.

II. Consolidated list

2. How has the 1267 Committee's List been incorporated within your legal system and your administrative structure, including financial supervision, police, immigration control, customs and consular authorities?

The Ministry of Foreign Affairs of Andorra transmits the lists issued by the Security Council Committee established pursuant to resolution 1267 (1999) and by

the Security Council Committee established pursuant to resolution 1373 (2001) to the Money-Laundering Prevention Unit. Within the jurisdiction granted to it under article 53 of the Act on International Cooperation in Criminal Matters and Prevention of the Laundering of Money or Securities Constituting the Proceeds of International Crime, the Unit issues official communications (included in a confidential annex) reproducing the lists of natural and legal persons that might be linked directly or indirectly to Usama bin Laden, Al-Qaida, members of the Taliban or any other international terrorist group.

The Act states that the Unit is authorized to cooperate with other similar agencies in other countries for the purposes set forth in the Act, that is, combating the laundering of money and assets. The offence of money-laundering is defined as the commission of acts characterized as such under the Penal Code. Article 145 of the Penal Code provides for five main offences with respect to money-laundering: drug trafficking, kidnapping, illegal arms sales, procurement and terrorism.

Article 51 of the Act obligates those responsible for combating money-laundering to monitor all transactions that, although not suspicious, take place under complex or unusual conditions and seem to have no economic justification or legal purpose, and especially transactions likely to involve money-laundering operations and those requiring special monitoring according to the non-restrictive official communications issued by the Money-Laundering Prevention Unit.

Moreover, financial entities incorporate the names included in the lists into their databases so as to permit the identification of the individuals concerned. In response to these official communications, the Unit has received replies from those responsible under the Act confirming that no accounts exist in the name of individuals or entities cited in the aforementioned lists.

Moreover, when the police services receive these lists they immediately check to see whether they include the names of any Andorran nationals or residents. To date, no natural or legal person who might be linked directly or indirectly to Usama bin Laden, Al-Qaida, members of the Taliban or any other international terrorist group has been located in Andorra. The lists are then incorporated into a database to permit appropriate monitoring of applications for immigration or for permission to invest capital in Andorra.

3. Have you encountered any problems with implementation with regard to the names and identifying information as currently included in the list? If so, please describe these problems.

To date, we have not encountered any problems with implementation with regard to the names currently included in the list. However, more detailed information on the individuals and entities included in the list would allow for more efficient verification.

4. Have your authorities identified inside your territory any designated individuals or entities? If so, please outline the actions that have been taken.

To date, no individual or entity included in the list has been identified in Andorran territory.

5. Please submit to the Committee, to the extent possible, the names of individuals or entities associated with Usama bin Laden or members of the

Taliban or Al-Qaida that have not been included in the list, unless to do so would compromise investigations or enforcement actions.

To date, the Andorran authorities have not identified in Andorran territory individuals or entities qualifying for inclusion in the list.

6. Have any listed individuals or entities brought a lawsuit or engaged in legal proceedings against your authorities for inclusion in the list? Please specify and elaborate, as appropriate.

No listed person or entity has brought a lawsuit or engaged in legal proceedings against Andorran authorities because they were included on the list.

7. Have you identified any of the listed individuals as nationals or residents of your country? Do your authorities have any relevant information about them not already included in the list? If so, please provide this information to the Committee as well as similar information on listed entities, as available.

No Andorran national or resident is included in the list.

8. According to your national legislation, if any, please describe any measures you have taken to prevent entities and individuals from recruiting or supporting Al-Qaida members in carrying out activities inside your country, and to prevent individuals from participating in Al-Qaida training camps established in your territory or in another country.

The Andorran Penal Code provides for a series of penalties for individuals who assist "organizations and groups that have jeopardized the security of the Principality or disturbed the peace and public order by means of arms or explosives or by committing attacks" (article 82). The Penal Code defines those individuals as:

- "Any person who, in order to obtain funds for the benefit of the organizations or groups (mentioned in the previous article) attacks property, causing death or serious injury, or commits a kidnapping" (article 83);
- "Any person who collects funds for the benefit of such organizations or groups" (article 84);
- "Any person who provides the members of such organizations with accommodation or any other resources" (article 85);
- "Any person who supplies or procures weapons or explosives for terrorists or armed groups" (article 86);
- "And any attempt to justify the offences or the organizations or groups referred to in the previous articles can be considered as support of such organizations" (article 87).

However, with regard to the recruitment of members of terrorist groups, a parliamentary commission which is currently preparing a complete revision of the Penal Code, will consider the possibility of including in the new text the penalization of recruitment in Andorran territory of members of terrorist groups operating in Andorra or abroad, directly or through fraudulent means.

III. Financial and economic assets freeze

Under the sanctions regime (paragraph 4 (b) of resolution 1267 (1999) and paragraphs 1 and 2 (a) of resolution 1390 (2002)), States are to freeze without delay the funds and other financial assets or economic resources of the listed individuals and entities, including funds derived from property owned or controlled, directly or indirectly, by them or by persons acting on their behalf or at their direction, and ensure that neither these nor any other funds, assets or resources are made available, directly or indirectly, for such persons' benefit, by their nationals or by any persons within their territory.

Note: For the purpose of implementation of the financial prohibitions in this sanctions regime, "economic resources" is defined to mean assets of every kind, whether tangible or intangible, movable or immovable.

9. Please describe briefly:

- **The domestic legal basis to implement the asset freeze required by the resolutions above;**
- **Any impediments under your domestic law in this context and steps taken to address them.**

The Act on International Cooperation in Criminal Matters and Prevention of the Laundering of Money or Securities Constituting the Proceeds of International Crime, of 29 December 2000, establishes the procedure for freezing funds and other financial assets in article 47, which stipulates that the Money-Laundering Prevention Unit may provisionally block a transaction if it considers such action to be justified by the evidence. The transaction may not be blocked for more than five days, the maximum time limit within which the Unit is required to terminate the block and authorize the execution of the transaction if the evidence is inaccurate or, if this is not the case, to transmit the action to the Public Prosecutor. The Prosecutor, with the approval of the courts, maintains or terminates the block.

In addition, concerning international requests for the freezing of funds, article 4 of the Act on International Cooperation in Criminal Matters and Prevention of the Laundering of Money or Securities Constituting the Proceeds of International Crime stipulates that international judicial cooperation shall be accepted, provided that:

(a) The proceedings abroad conform with the constitutional principles of the Principality in respect of the rights and freedoms guaranteed in chapter II of the Constitution;

(b) The measure requested does not conflict with the fundamental principles of the Andorran legal system;

(c) There are no substantial grounds for believing that the proceedings have been instituted against a person on account of his or her political opinions, social origin, race, religion or nationality;

(d) All the offences giving rise to the letters rogatory are punishable as criminal offences under Andorran law;

(e) The person who is the subject of the request has not been sentenced to imprisonment in the Principality and served his or her sentence or been acquitted in Andorra of the same offences;

(f) The acts giving rise to the request are not of a political nature and the request does not have a political end;

(g) The acts giving rise to the request, while they constitute an offence under Andorran law, are of sufficient importance to justify the intervention of the Andorran courts;

(h) The communication of the information does not undermine the sovereignty, security, public order or other basic interests of the Principality.

In any case, the Andorran judicial authorities would immediately freeze the assets mentioned in Security Council resolutions 1267 (1999) and 1390 (2002) if such funds or other financial assets were to be discovered in Andorra.

10. Please describe any structures or mechanisms in place within your Government to identify and investigate Usama bin Laden, Al-Qaida or Taliban-related financial networks, or those who provide support to them or individuals, groups, undertakings and entities associated with them within your jurisdiction. Please indicate, as appropriate, how your efforts are coordinated nationally, regionally and/or internationally.

The Government of Andorra would like to explain that the Money-Laundering Prevention Unit (the Andorran financial intelligence unit), which joined the Egmont Group of Financial Intelligence Units of the World on 5 June 2002, has the authority to cooperate with similar agencies in other countries in combating money-laundering and the financing of terrorism. To date, it has signed bilateral agreements with France (TRACFIN), Spain (SEPBLAC), Belgium (CTIF-CFI), Luxembourg, Monaco, Poland and Portugal.

However, as stipulated in articles 55 and 56 of the Act on International Cooperation in Criminal Matters and Prevention of the Laundering of Money or Securities Constituting the Proceeds of International Crime, cooperation with other similar foreign agencies does not require the existence of written agreements.

"The Money-Laundering Prevention Unit referred to in the previous articles shall cooperate with other similar foreign agencies" (article 55).

"The transmission of information concerning operations or projected operations relating to money-laundering and international crime, and of extracts from court files, to other similar foreign agencies may be done by the Money-Laundering Prevention Unit on its own initiative or at the request of such agencies, but shall always require the authorization of the chief administrative officer of the Unit and shall be subject to certification, in advance of transmission, by the party receiving the information that it meets the following conditions:

"(a) Reciprocity in the exchange of information;

"(b) An undertaking on the part of the receiving State that it will not use the information for purposes other than those covered by this Act;

"(c) The obligation, on the part of the foreign agencies receiving the information, to maintain professional secrecy under pain of criminal prosecution" (article 56).

However, some financial intelligence units have requested that such cooperation should take place on the basis of a pre-existing bilateral agreement: a standard document prepared by the Egmont Group (known as a memorandum of understanding) through which the various units may cooperate.

On 17 June 2003, the Andorran Government approved negotiations leading to the signing of such agreements with the financial intelligence units of the following countries: Italy, Liechtenstein, Luxembourg, Mexico, Monaco, the Netherlands, Panama, Poland, Portugal, Romania, Russia, Slovenia, Switzerland, the United Kingdom, the United States of America, Uruguay and Venezuela.

In addition, the Council of Europe Select Committee of Experts on the Evaluation of Anti-Money-Laundering Measures and the International Monetary Fund have evaluated and expressed their approval of the Principality of Andorra's system for preventing and combating money-laundering and the financing of terrorism.

The sharing of information on perpetrators of terrorist acts must be handled through the Andorran police. There is mutual cooperation between the Andorran police force and the police forces of other States, which exchange information rapidly and spontaneously, without the need for bilateral agreements, or through the International Criminal Police Organization (Interpol). Furthermore, two protocols on police cooperation have been concluded with the Spanish authorities.

Responsibility for coordinating counter-terrorism policies at the national level lies with the Government. The Principality of Andorra covers 468 square kilometres and has 72,320 inhabitants. It is divided into seven *parròquies* ("parishes"), which are represented and administrated by the *comuns* ("communes"), public authorities having legal personality and the power to enact local regulations, subject to the law. Within their spheres of competence, which they exercise in accordance with the Constitution, the law and tradition, they respect the principle of free administration recognized and guaranteed by the Constitution. However, they are not responsible for police- and security-related matters, which are the prerogatives of the national Government.

11. Please convey the steps banks and/or other financial institutions are required to take to locate and identify assets attributable to, or for the benefit of, Usama bin Laden or members of Al-Qaida or the Taliban, or associated entities or individuals. Please describe any "due diligence" or "know your customer" requirements. Please indicate how these requirements are enforced, including the names and activities of agencies responsible for oversight.

In order to verify enforcement of the law, the Money-Laundering Prevention Unit, in the exercise of its functions, may submit a substantiated request for information and documents to entities under obligation to report. It may even procure information through the police or cooperate with similar agencies in other countries. It may also provide financial institutions with "black" lists of organizations and individuals in order to alert them thereto, as has been done in the case of the list circulated by the Committee established pursuant to resolution 1267 (1999).

Under the Act on International Cooperation in Criminal Matters and Prevention of the Laundering of Money or Securities Constituting the Proceeds of International Crime, Andorran financial institutions, insurance and reinsurance

companies and other natural or legal persons who, in the exercise of their profession or business activity, carry out, monitor or give advice regarding transactions involving the transfer of funds or assets are required to report to the Money-Laundering Prevention Unit. Such reporting is required in the case of any transaction or planned transaction involving funds or assets which they suspect might involve money-laundering (articles 45 and 46).

In particular, the Act establishes reporting requirements for independent professional accountants and financial advisers, real estate agents, vendors of high-priced goods (when payment is made in cash and involves an amount equal to or greater than 15,000 euros), notaries and other independent legal professionals when they are involved in the planning or execution of transactions for their clients in connection with certain activities. These activities include the purchase and sale of real estate or businesses, the handling of cash, securities or other assets of clients and the opening or management of bank, savings or stock accounts. They also include fund-raising for the establishment, administration or management of corporations and the establishment, administration or management of trust companies and similar structures.

The Unit transmits to entities under obligation to report, through an official communication, a standard customer identification form entitled "Know your customer" (included in the confidential annex to this report), which gives them a better idea of the customer's identity so that they can correctly identify any individuals or entities belonging to financial networks with links to Usama bin Laden, Al-Qaida or the Taliban, to those who provide assistance to them, or to individuals or groups associated with them.

Entities under obligation to report, and especially financial institutions, are also required to establish an office responsible for internal monitoring and reporting in order to anticipate and prevent money-laundering operations. Its functions include ongoing monitoring and reporting of all suspicious transactions; training of all staff members, especially those who are in contact with clients; establishment of internal rules and regulations; and conducting of an annual internal audit, which will be transmitted to the Money-Laundering Prevention Unit.

The functions attributed to the Unit by the Act on International Cooperation in Criminal Matters and Prevention of the Laundering of Money or Securities Constituting the Proceeds of International Crime, adopted on 29 December 2000, include the right of its officials to meet with the staff of entities under obligation to report, as defined in article 48 of the Act, and to visit the premises of such entities. Thus, the Unit can carry out on-site inspections and request relevant documents or information in order to verify that the obligations established in this Act have been met by the entities concerned.

Various inspections have already been carried out, with highly satisfactory results (a sample inspection report is included in the confidential annex to this report).

In addition, entities under obligation to report, especially those which are part of the financial system, must submit to the Unit a specific external audit report on the subject of anti-money-laundering practices. This external audit report must explain the complete structure of the entity's internal monitoring office, the office's functions and a description of the internal procedures relating to its communications

network, document storage, client identification and so on. After reading this report, the Unit may propose any necessary correction and improvement measures and follow up on them. This report, which must be submitted annually, is compulsory and must be delivered to the Unit within three months of the end of the fiscal year on pain of administrative penalties. The Unit establishes the format and content of the reports through official communications (included in the confidential annex to this report). The procedures to be carried out by the external auditors include verification of internal practices and of respect for the identification and declaration requirements.

In practice, if, during these inspections or during investigations initiated by the Unit, the judicial police or the legal authorities, it appears that an unusual or suspicious transaction has not been declared, the omission of this declaration is viewed as a very serious administrative offence which may entail a fine of 60,001 to 600,000 euros and the temporary suspension or dismissal of the responsible directors or staff of the entity in question.

12. Resolution 1455 (2003) calls on Member States to provide "a comprehensive summary of frozen assets of listed individuals and entities". Please provide a list of the assets that have been frozen in accordance with this resolution. This list should also include assets frozen pursuant to resolutions 1267 (1999), 1333 (2000) and 1390 (2002). Please include, to the extent possible, in each listing the following information:

- **Identification(s) of the person or entities whose assets have been frozen;**
- **A description of the nature of the assets frozen (i.e., bank deposits, securities, business assets, precious commodities, works of art, real estate property, and other assets);**
- **The value of assets frozen.**

The Andorran authorities have had no occasion to freeze any assets of individuals or entities under resolutions 1267 (1999), 1333 (2000), 1390 (2002) or 1455 (2003).

13. Please indicate whether you have released pursuant to resolution 1452 (2002) any funds, financial assets or economic assets that had previously been frozen as being related to Usama bin Laden or members of Al-Qaida or the Taliban or associated individuals or entities. If so, please provide reasons, amounts unfrozen or released and dates.

The Andorran authorities have had no occasion to release any funds pursuant to resolution 1452 (2002) because they had not previously had occasion to freeze funds relating to Usama bin Laden or members of Al-Qaida or the Taliban or associated individuals or entities.

14. Pursuant to resolutions 1455 (2003), 1390 (2002), 1333 (2000) and 1267 (1999), States are to ensure that no funds, financial assets or economic resources are made available, directly or indirectly, to listed individuals or entities or for their benefit, by nationals or by any persons within their territory. Please indicate the domestic legal basis, including a brief description of laws, regulations and/or procedures in place in your country to control the movements of such funds or assets to designated individuals and entities. This section should include a description of:

- **The methodology, if any, used to inform banks and other financial institutions of the restrictions placed upon individuals or entities listed by the Committee, or who have otherwise been identified as members or associates of Al-Qaida or the Taliban. This section should include an indication of the types of institutions informed and the methods used;**

- **Required bank-reporting procedures, if any, including the use of suspicious transaction reports, and how such reports are reviewed and evaluated;**

- **Requirements, if any, placed on financial institutions other than banks to provide suspicious transaction reports, and how such reports are reviewed and evaluated;**

- **Restrictions or regulations, if any, placed on the movement of precious commodities such as gold, diamonds and other related items;**

- **Restrictions or regulations, if any, applicable to alternate remittance systems such as — or similar to — "hawala", as well as on charities, cultural and other non-profit organizations engaged in the collection and disbursement of funds for social or charitable purposes.**

The methodology used to inform banks and other financial institutions of the restrictions placed upon individuals or entities listed by the Committee is that of official communications prepared by the Money-Laundering Prevention Unit and sent to all entities obliged to comply with article 51 of the Act on International Cooperation in Criminal Matters and Prevention of the Laundering of Money or Securities Constituting the Proceeds of International Crime; see also the explanations provided under question 11 above.

The procedures required for the submission of bank reports concerning, inter alia, suspicious transactions have been developed by the Unit and transmitted through official communications to entities under obligation to report (copies of these communications are included in the confidential annex to this report). These official communications require the entities in question to inform the Unit and, in particular, to describe in detail:

– The identity of the customer who is the subject of the suspicious transaction report (personal data, account numbers, identity card etc.);

– The names of persons having any relationship to the customer (those who authorized or benefited from the transaction or who have other, related accounts);

– A description of the transaction (nature or form of the suspicious transaction, amount, currency, place, date); and

– The grounds for suspicion.

The obligation for financial institutions other than banks to submit suspicious transaction reports, and for vendors of high-priced goods, is the same as for all entities subject to such obligations. See the explanations provided under item 11 above.

In alternative or informal systems, money or securities are moved through channels outside the financial system, with the funds or goods being payable as cash

in another country. Such alternative systems are usually used by particular ethnic or national groups, or other organized groups.

Because associations in the Principality of Andorra are restricted and tightly controlled, this high-risk practice has never developed, and there are no informal fund-transfer systems or alternative money-transfer agencies.

However, any natural or legal person providing such financial services without the appropriate authorization would be committing a serious administrative offence, under article 15 of the Act of 27 November 1997 regulating disciplinary arrangements for the financial system and would incur a penalty under article 18 of that Act (a fine of 150,000 to 300,000 euros and temporary or permanent restriction of the establishment's operation). The same natural or legal person would also be committing a criminal offence under article 141 bis of the Penal Code, which carries a sentence of up to five years' imprisonment and a fine of up to 150,000 euros. If the financial activities have involved a legal person, that legal person may incur the additional penalty of being forcibly dissolved.

The Act of 19 December 1996 on the terms of operation of the financial system establishes which entities make up that financial system, and defines the activities which each of them can undertake, subject always to the authorization and regulation of the appropriate administering body. Article 9 (a) prohibits non-banking financial institutions from accepting routine deposits or other repayable funds from the public, as that is the function of a bank.

The current composition of the Andorran financial system is as follows:

Banking establishments: six authorized establishments

Non-banking specialist credit financial establishments:

- specializing in mortgage loans: none accredited
- specializing in forward sales: 1 accredited
- specializing in leasing: none accredited
- specializing in factoring: none accredited

Investment-related financial establishments:

- financial establishments managing assets: 5 accredited
- financial establishments managing investment bodies: 3 accredited
- financial establishments promoting venture capital: none accredited

Financial establishments providing miscellaneous services:

- currency-exchange institutions: none accredited
- institutions providing financial advice: none accredited
- financial intermediation institutions: none accredited

Regulation of the Andorran financial system began in 1989 with the Act establishing the Andorran National Financial Institute (INAF), which oversees and monitors the financial system. Prior to that, the financial sector had been self-regulating, through a code of conduct based on the Basel principles and the various international conventions and standards for combating money-laundering.

Once INAF had been set up and was in operation, an Act on provisional measures ordering and regulating the financial sector was adopted (28 April 1993); it was subsequently amended by the Act on the terms of operation of the financial system of 1996. It stipulated that until such time as an Act regulating the financial system was adopted, no new financial entity could be placed on the Administrative Registers, in other words, no such entity could be established. In November 1993, the Act regulating the financial system was adopted. It stipulated, among other things, that all financial activities must be conducted through a legal person, and that until such time as a specific Act setting the minimum reserves for each type of activity was adopted, no accreditation would be issued. So far, only the texts regulating banking activity have been adopted, and it should be pointed out that no new banking institutions can currently be licensed.

Thus, the financial system is currently closed. Only subsidiaries of banks have been authorized, since the legal texts require certain activities to be separated off.

This situation explains why Andorra in practice has only some of the non-banking financial activities which are typical of the average financial system.

The acts regulating the Andorran financial system can be found at http://www.inaf.ad.

With regard to associations, the qualified Associations Act of 29 December 2000 seeks to develop the freedom of association recognized in the 1993 Constitution, and to regulate associations in general, without affecting special legislation governing specific associations.

For the purposes of the Act, an association is any voluntary group of three or more persons who seek, by means which are not in violation of the law, to attain a legitimate, non-profit goal.

Associations governed by this Act may engage in economic activity provided that they operate within the bounds of their statutes and do not seek, whether explicitly or implicitly, to generate profits to be divided among their members.

This Act provides for administrative penalties which may be applied.

However, article 1.2 of the Act stipulates that the aims of all associations must be legitimate and non-profit. Article 29 of the Act stipulates that associations receiving public grants must account for the use of those grants to the body which paid them. Associations may in addition be dissolved by a final decision of a court, under the terms laid down in articles 100, 146 and 82-84 of the Penal Code.

Article 100 makes it illegal to form an association of two or more people to plot or commit an offence.

Article 23 of the Associations Act imposes responsibilities on associations and the members of their general meetings. Accordingly, associations are held accountable for what they do and what they fail to do with all their assets and rights, present and future. The members of the general meeting are answerable to the association, associates and third parties for any action they take in the performance of their duties that is contrary to the law or to the association's statutes, and for damages and compensation resulting from wilful deception or negligence. In addition, the members of the general meeting have joint and several responsibility for actions agreed on collectively, unless they have declared their opposition thereto.

Joint and several responsibility also applies if the action or failure to act cannot be attributed to one or more of those members individually and exclusively.

IV. Travel ban

Under the sanctions regime, all States shall take measures to prevent the entry into or transit through their territories of Listed individuals (paragraph 1 of resolution 1455 (2003), paragraph 2 (b) of resolution 1390 (2002)).

15. Please provide an outline of the legislative and/or administrative measures, if any, taken to implement the travel ban.

Because of its geographical characteristics, Andorra has no air access of its own. Furthermore, Andorra is located in the middle of the Pyrenees, making maritime access impossible.

As a result, the only access to Andorra is by land through two single entry passages: in the north, the Franco-Andorran frontier, in the south, the Hispano-Andorran frontier. This means that individuals who arrive in Andorra have first passed through the entry and exit controls of our neighbouring countries.

Even so, Andorran police officers verify once again that the individuals are in possession of the necessary travel documents — a passport, for example — and even that they have sufficient resources to permit a stay in Andorra.

Still, since the attacks of 11 September 2001, the Andorran police, made more aware by the events that shocked the whole world, have reinforced their border controls so as to detect the entry of possible terrorists into Andorra. Furthermore, the members of the police force, in cooperation with the Spanish and French police, have taken training courses so that they can more easily detect whether documents have been tampered with. In order to prevent the counterfeiting of passports, Andorra follows the rules of the International Civil Aviation Organization (ICAO) regarding official travel documents. These rules have been followed since 19 April 1995, even before Andorra's admission to ICAO on 26 January 2001. These security measures allow for strict surveillance and prevent potential counterfeiting. They are also applied in connection with immigration papers.

In any case, when in doubt, Andorran police officers use the operational information units in order to obtain information. If, despite all this, an individual appearing on the list mentioned in paragraph 4 (b) of resolution 1267 (1999) and paragraphs 1 and 2 (a) of resolution 1390 (2002) enters Andorra with the intention of settling there, he or she will have to follow the procedure for immigration applications.

Under the Immigration Organization Act of 14 May 2002, article 20, paragraphs 1-3, an immigrant seeking to become legally resident in Andorra must apply to the Immigration Service. The application may, however, be denied in accordance with the third interim provision of the Act, which states that the applicant's judicial and police records must be examined.

In that regard, the police have the authority to check the judicial and police records of foreign nationals and the authenticity of the official documents in their possession and generally to ensure public order (article 4 of the Decree on the Immigration Service, of 16 October 2002).

When an immigration application is denied, the individual concerned is asked to leave Andorra as soon as possible. If necessary, a deportation order is issued and the individual concerned is escorted back to the border, on the basis of articles 104 et seq. of the Act.

The Act also establishes certain criteria relating to persons applying for immigration permits. For example, article 42 establishes that a person who submits an immigration application must not pose any danger to the security of the State or of persons or property, or to law and order, and article 47 provides for the denial of authorization in cases where documents or information have been falsified or withheld. (The same criteria would apply to residents who wish to renew their immigration authorizations.)

16. Have you included the names of the listed individuals in your national "stop list" or border checkpoint list? Please briefly outline steps taken and any problems encountered.

The listed individuals do indeed appear in the files used at border checkpoints. The police services have a file listing individuals who have been deported following a judicial or administrative decision. Monitoring at border checkpoints is based on that list of deported persons and on police files of persons being sought or who have been detained. The files also contain data on persons being sought at the international level, based on information sent by Interpol or obtained from its files, lists issued by international organizations and forwarded by the Ministry of Foreign Affairs, and lists sent by other countries.

17. How often do you transmit the updated List to your border control authorities? Do you possess the capability of searching List data using electronic means at all your entry points?

These databases are updated automatically, and border checkpoints are fully equipped with electronic means of searching for data.

18. Have you stopped any of the listed individuals at any of your border points or while transiting your territory? If so, please provide additional information, as appropriate.

To date, no Listed persons have been stopped at border points or at the frontiers of Andorran territory.

19. Please provide an outline of the measures, if any, taken to incorporate the List in the reference database of your Consular offices. Have your visa-issuing authorities identified any visa applicant whose name appears on the List?

Andorra does not have its own legislation governing visas. Nevertheless, in December 2000, the Principality signed a convention with France and Spain concerning the movement and stay of third-country nationals in Andorra, article 2 of which provides that "the Contracting Parties undertake to coordinate their legislation on the entry and stay of third-party nationals, taking into particular account their respective interests and their international commitments. To that end, the Contracting Parties shall regularly provide each other with the list of third States whose nationals are subject to a visa requirement for a transit or a stay of less than 90 days".

Under article 3 of the Convention, nationals of third States may not enter Andorra unless they possess a valid travel document, with the appropriate visas where necessary.

V. Arms embargo

Under the sanctions regime, all States are required to prevent the direct or indirect supply, sale and transfer to Usama bin Laden, members of the Al-Qaida organization and the Taliban and other individuals and entities associated with them, from their territories or by their nationals outside their territories, of arms and related materiel of all types, including the provision of spare parts and technical advice, assistance or training related to military activities (paragraph 2 (c) of resolution 1390 (2002), and paragraph 1 of resolution 1455 (2003)).

20. What measures, if any, do you now have in place to prevent the acquisition of conventional arms and weapons of mass destruction by Usama bin Laden, members of the Al-Qaida organization and the Taliban and other individuals, groups, undertakings and entities associated with them? What kind of export controls do you have in place to prevent the above targets from obtaining the items and technology necessary for weapons development and production?

Andorra has been free of weapons and war for over seven centuries, a historical fact that serves to confirm its desire to join with other countries in the efforts to keep the world free of nuclear, chemical and biological weapons. To that end, it ratified the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on their Destruction on 29 June 1998 and the Treaty on the Non-Proliferation of Nuclear Weapons in June and July 1996. Furthermore, on 24 September 1996, Andorra signed the Comprehensive Nuclear-Test-Ban Treaty and, on 9 January 2001, concluded an agreement with the International Atomic Energy Agency concerning the application of safeguards within the framework of the Treaty on the Non-Proliferation of Nuclear Weapons.

On 31 July 2002, during a meeting of the Council of Ministers, the Andorran Government approved Andorra's accession to the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction. The Consell General (Parliament) gave its approval on 17 October 2002, following which the Permanent Mission of the Principality of Andorra to the United Nations deposited the instrument of accession on 27 February 2003. Since article XXI, paragraph 2, of the Convention provides that it shall enter into force on the 30th day following the date of deposit of the instrument of accession, it entered into force in respect of Andorra on 29 March 2003.

The Andorran legal system includes a number of provisions relating to arms trafficking. Firstly, a decree of 3 July 1989 regulates the possession, use and distribution of firearms. In particular, sections II and III list the prohibited weapons and imitations of prohibited weapons and those which may not be carried.

Secondly, the Penal Code penalizes the unlawful possession of firearms (articles 289 and 290), as well as for the "stockpiling, import, export, sale or transit, real or fictitious, through the Principality, as well as the manufacture of prohibited arms or imitations of such arms, envisaged in section 2, article 2, of the decree of 3

July 1989, except those mentioned in paragraph 8. Such offences are punishable by imprisonment of up to ten years"; "illegal carrying of one or more such arms (...) is punishable by imprisonment of up to five years" (articles 89 and 90).

Thirdly, article 93 states "the import, purchase, sale, possession, carrying and repair of regulated arms or the manufacture of regulated munitions, without the necessary permits, authorizations or licenses shall be punishable by imprisonment of up to three years, except in the cases envisaged in articles 289 and 290 of this code. Smooth-barrelled hunting guns are exempted from the provisions of this article".

Along the same lines, article 95 states "the illegal sale of a regulated handguns to anyone who is not a resident of the Principality shall be punishable with imprisonment of up to four years".

Lastly, articles 96 and 98 respectively state "anyone who carries out international transactions with regulated arms which involve real or fictitious transit through the Principality shall be imprisoned for up to eight years". As regards explosives, "the purchase, sale, possession or import of explosives not intended for use in an authorized activity shall be punishable with imprisonment of up to ten years".

21. What measures, if any, have you adopted to criminalize the violation of the arms embargo directed at Usama bin Laden, members of the Al-Qaida organization and the Taliban and other individuals, groups, undertakings and entities associated with them?

The violation of the arms embargo is penalized under articles 89, 90, 93, 95, 96, 98, 289 and 290 of the Penal Code, as described in the reply to question 20 above.

22. Please describe how your arms/arms broker licensing system, if any, can prevent Usama bin Laden, members of the Al-Qaida organization and the Taliban and other individuals, groups, undertakings and entities associated with them from obtaining items under the established arms embargo.

The arms and arms broker licensing system is based on the Decree concerning the possession, use and distribution of firearms of 3 July 1989. Accordingly, Andorran gunsmiths can sell category 1 and 2 weapons (guns and ammunition) only to the holders of a purchasing order. With regard to ammunition sales, if the purchaser holds a licence to bear or possess the corresponding weapon, the ammunition will be handed over immediately on the gunsmith's premises. If the purchaser is a non-resident alien, the ammunition will be handed over at the central police bureau. In the case of the sale of handguns, the licensed retailer will hand them over at the central police bureau.

A weapons inspector will record the make, model, calibre and serial number of the weapon on the purchasing order and on the arms licence and will prepare a relevant owners' guide (except in the case of non-resident aliens).

If the purchaser is a non-resident alien, the police will transport the weapon to the border, where it will be handed over to the purchaser on his/her departure from the Principality.

The Andorran courts are competent to grant firearms licences to individuals with the appropriate physical and psychological capacities and the technical ability

to use and maintain weapons who are aware of the minimum security standards that must be observed.

The various types of arms licences, issued and signed by a judge of the correctional court and a judge of the minor offences court, grant authorization for the ownership and use of weapons registered in accordance with the provisions of paragraph (b) of this section. Notwithstanding, the judges may include in the licences any additional restrictions that they consider appropriate.

The owners' guide for each weapon listed on the licence will be provided by the police. The guide will contain the personal information of the weapon's owner, who may be a natural or legal person, the make, model, calibre and serial number of the weapon and the place where it will be stored, the number and category of the arms licence on which it is listed and the individual number of the guide.

In certain cases, a single weapon may be listed on several licences.

Applications for licences may be submitted to the courts through the police service.

23. **Do you have any safeguards that the weapons and ammunition produced within your country will not be diverted/used by Usama bin Laden, members of the Al-Qaida organization and the Taliban and other individuals, groups, undertakings and entities associated with them?**

This question is not applicable, since the Principality of Andorra produces neither arms nor ammunition.

24. **Would your State be willing or able to provide assistance to other States to help them implement the measures contained in the above-mentioned resolutions? If so, please provide additional details or proposals.**

The Principality of Andorra is willing to cooperate with other States to help them implement the measures contained in the above-mentioned resolutions. In that connection, in 1999, Andorra participated in a programme for the destruction of small arms in Albania and, subsequently, in a similar programme in the Niger, through the Department for Disarmament Affairs of the United Nations.

Furthermore, during the first quarter of 2004, the Principality of Andorra chaired the Forum for Security Cooperation (FSC) of the Organization for Security and Cooperation in Europe. The main objectives of the Andorran chairmanship were to continue to strengthen arms control, disarmament and security and confidence-building measures and to pursue the fight against terrorism. In its capacity as chair of FSC, Andorra was able to take part in meetings with the Security Council Counter-Terrorism Committee.

25. **Please identify areas, if any, of incomplete implementation of the Taliban/Al-Qaida sanctions regime, and where you believe specific assistance or capacity-building would improve your ability to implement the above sanctions regime.**

More detailed information about the individuals and entities on the Committee's list would permit their more effective identification.

26. Please include any additional information you believe pertinent.

The Principality of Andorra remains at the Committee's full disposal with regard to the provision of any necessary information and is receptive to all its recommendations.